

**BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO**

MARK CERCHIONE,	)	
Claimant,	)	
v.	)	<b>IC 2006-000706</b>
	)	
SECURITAS SECURITY SERVICES	)	
dba PINKERTON CONSULTING AND	)	
INVESTIGATIONS,	)	
	)	<b>ORDER DENYING</b>
Employer,	)	<b>RECONSIDERATION</b>
and	)	
	)	
INTERMOUNTAIN CLAIMS,	)	
	)	Sept. 24, 2008
Surety,	)	
	)	
Defendants.	)	
	)	

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On July 29, 2008, Defendants filed a motion requesting reconsideration of the Industrial Commission's decision filed July 10, 2008, in the above referenced case. Claimant filed a response on August 12, 2008. Defendants did not file a reply.

In the motion, Defendants ask for reconsideration based upon inconsistencies in the findings of fact and a failure to adequately address certain undisputed facts which lead to the conclusion that Claimant's fall on January 10, 2006 did not cause his need for lumbar surgery. Claimant argues that Defendants are asserting the same arguments that were previously presented to and considered by the Commission.

Undoubtedly, this case contains differing viewpoints and conflicting medical opinions

regarding Claimant's injury. The decision did not restate Dr. Anderson's opinion that "the most I [Dr. Anderson] could say is the patient related to me that he hurt his back while falling at work, but I have no way of proving causation." Exhibit A. Yet the Commission's analysis took into account all the medical records and noted that even Defendants' expert opined that it was possible for Claimant's January 10, 2006 fall to result in a herniated disk.

The Commission's decision found Claimant a credible witness and further found the opinion of Dr. Scheffel most persuasive. Dr. Scheffel testified, and the Commission's decision noted, that it is not uncommon for a period of several months to transpire in a middle-aged individual between trauma causing annular tearing and further non-traumatic activity causing extrusion of sufficient disk material through the annular tear to impinge a nerve root and produce lower extremity pain. The decision ultimately concluded that Claimant's fall at work on January 10, 2006 caused his need for lumbar surgery.

Defendants very carefully lay out their argument and supporting facts. But every individual report and statement will not be readdressed and commented on by the Commission in this order on reconsideration. The Commission was aware of the applicable arguments and facts that resulted in the final conclusions. The recommendation did not detail all the facts presented, but the Commission reviewed and weighed, as a whole, the medical reports and evidence.

A party must present to the Commission new reasons factually and legally to support a motion for reconsideration rather than rehashing evidence previously presented. *Curtis v. M.H. King Co.*, 142 Idaho 383, 388, 128 P.3d 920, 925 (2005). The Commission's decision of July 10, 2008, in the above referenced case, is supported by substantial evidence in the record and Claimant has presented no persuasive argument to disturb the decision.

Based upon the foregoing reasons, Defendants' Motion for Reconsideration is DENIED.

IT IS SO ORDERED.

DATED this 24th\_\_ day of \_\_September\_\_\_\_, 2008.

INDUSTRIAL COMMISSION

\_\_\_\_/s/\_\_\_\_\_  
James F. Kile, Chairman

\_\_\_\_/s/\_\_\_\_\_  
R.D. Maynard, Commissioner

\_\_\_\_/s/\_\_\_\_\_  
Thomas E. Limbaugh, Commissioner

ATTEST:

\_\_\_\_/s/\_\_\_\_\_  
Assistant Commission Secretary

**CERTIFICATE OF SERVICE**

I hereby certify that on 24th\_\_ day of \_\_Sept.\_\_\_\_, 2008, a true and correct copy of the foregoing ORDER DENYING RECONSIDERATION was served by regular United States Mail upon each of the following:

LAWRENCE G SIRHALL JR  
PO BOX 1112  
BOISE ID 83702

ERIC S BAILEY  
PO BOX 1007  
BOISE ID 83701

\_\_\_\_/s/\_\_\_\_\_